

The Senate Committee on Special Judiciary offered the following substitute to HB 502:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 10 of Title 9 and Article 2 of Chapter 8 of Title 17 of the
2 Official Code of Georgia Annotated, relating to continuances relative to civil practice and
3 procedure and continuances relative to trial, respectively, so as to provide for and revise the
4 granting of continuances and stays in civil and criminal cases at certain times and intervals
5 for members and certain staff of the General Assembly for purposes of fulfilling their
6 responsibilities to the General Assembly; to revise continuances for members of the Board
7 of Regents and the Attorney General; to provide for related matters; to provide for
8 applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 7 of Chapter 10 of Title 9 of the Official Code of Georgia Annotated, relating to
12 continuances relative to civil practice and procedure, is amended by revising Code Section
13 9-10-150, relating to grounds for continuance – attendance of party or attorney in General
14 Assembly, as follows:

15 "9-10-150.

16 (a) A member of the General Assembly who is a party to or the attorney for a party to a
17 case; or any ~~member of the~~ staff member of the Lieutenant Governor, the Speaker of the
18 House of Representatives, the President Pro Tempore of the Senate, the Speaker Pro
19 Tempore of the House of Representatives, or the chairperson of the Judiciary Committee
20 or Special Judiciary Committee of the Senate or of the Judiciary Committee or Judiciary,
21 Non-civil Committee of the House of Representatives who is the lead counsel for a party
22 to a case pending in any trial or appellate court or before any administrative agency of this
23 state, shall be granted a continuance and stay of the case. The continuance and stay shall
24 apply to all aspects of the case, including, but not limited to, the filing and serving of an
25 answer to a complaint, the making of any discovery or motion, or of any response to any
26 subpoena, discovery, or motion, and appearance at any hearing, trial, or argument. Unless

a shorter length of time is requested by the member, the continuance and stay shall last for the seven days prior to the regular or extraordinary session of the General Assembly; the length of any regular or extraordinary session of the General Assembly; and during the first three weeks following any recess or adjournment, including an adjournment sine die of any regular or extraordinary session; and the entirety of any day during the calendar year on which a legislative committee for which the member serves or is staff holds a scheduled meeting. ~~A continuance and stay shall also be granted for such other times as the member of the General Assembly or staff member certifies to the court that his or her presence elsewhere is required by his or her duties with the General Assembly.~~ Notwithstanding any other provision of law, rule of court, or administrative rule or regulation, the time for doing any act in the case which is delayed by the continuance provided by this Code section shall be automatically extended by the same length of time as the continuance or stay covered.

(b)(1) For such other times not provided for in subsection (a) of this Code section, a member of the General Assembly who is a party to a case or the lead counsel for a party to a case may request a continuance or stay as the member of the General Assembly certifies to the court that his or her presence elsewhere is required by his or her duties with the General Assembly. The certification by the member of the General Assembly shall be in writing and shall state with particularity the nature of the General Assembly duties that require the continuance or stay. Opposing counsel, an interested party, or the court on its own motion shall have ten days from receipt of the request for a continuance or stay to object to the request by stating with particularity the grounds upon which it is determined that such stay or continuance will cause significant harm to the rights of a party or would otherwise be detrimental to the interest of justice. The court upon receipt of the objection, or on its own motion, shall consider the following in determining whether to grant or deny the continuance or stay:

(A) The length of time that the case has been pending;

(B) The length of delay that such stay or continuance will cause in the resolution of the case;

(C) The nature of the General Assembly duties that require the continuance or stay; and

(D) Such other factors that the court determines to be relevant in determining the harm to the rights of the parties or the interest of justice in the granting or denial of the request for a continuance or stay.

(2) Absent a ruling by the court denying the continuance or stay certified by the member under paragraph (1) of this subsection, such continuance or stay shall be considered granted as a matter of law."

SECTION 2.

Said article is further amended by revising Code Section 9-10-151, relating to grounds for continuance of a member of the Board of Regents, as follows:

"9-10-151.

Should any member of the Board of Regents of the University System of Georgia or any member of the State Board of Education be ~~engaged otherwise occupied~~, at the time of any meeting of the board, as counsel or party in any case pending in the courts of this state and should the case be called for trial during the regular session of the board, the absence of the member to attend the session shall be good ground for a postponement or continuance of the case until the session of the board has come to an end."

SECTION 3.

Article 2 of Chapter 8 of Title 17 of the Official Code of Georgia Annotated, relating to continuances relative to trial, is amended by revising Code Section 17-8-26, relating to grounds for granting continuances – party or party's attorney in attendance at General Assembly, as follows:

"17-8-26.

(a) A member of the General Assembly who is a party to or the attorney for a party to a case or any staff member of the Lieutenant Governor, the Speaker of the House of Representatives, or the chairperson of the Judiciary Committee or Special Judiciary Committee of the Senate or of the Judiciary Committee or Judiciary, Non-civil Committee of the House of Representatives who is the lead counsel for a party to a case ~~which is~~ pending in any trial or appellate court or before any administrative agency of this state shall be granted a continuance and stay of the case. The continuance and stay shall apply to all aspects of the case, including, but not limited to, the filing and serving of an answer to a complaint, the making of any discovery or motion, or of any response to any subpoena, discovery, or motion, and appearance at any hearing, ~~pretrial appearance, arraignment, plea or motion calendar~~, trial, or argument. ~~When a case, motion, hearing, or argument is called and is subject to a continuance or stay under this Code section due to the party's attorney's membership in the General Assembly, the party shall not be required to be present at the call of the case, motion, hearing, or argument.~~ Unless a shorter length of time is requested by the member, the continuance and stay shall last for the seven days prior to the regular or extraordinary session of the General Assembly; the length of any regular or extraordinary session of the General Assembly; ~~and~~ during the first three weeks following any recess or adjournment, including an adjournment sine die of any regular or extraordinary session; and the entirety of any day during the calendar year on which a legislative committee for which the member serves or is staff holds a scheduled meeting.

Notwithstanding any other provision of law, rule of court, or administrative rule or regulation, and to the extent permitted by the Constitutions of the United States and of the State of Georgia, the time for doing any act in the case which is delayed by the continuance or stay provided by this Code section shall be automatically extended by the same length of time as the continuance or stay covered.

(b)(1) For such other times not provided for in subsection (a) of this Code section, a member of the General Assembly who is a party to a case or the lead counsel for a party to a case may request a A continuance and stay ~~shall also be granted~~ for such other times as the member of the General Assembly ~~or staff member~~ certifies to the court that his or her presence elsewhere is required by his or her duties with the General Assembly. The certification by the member of the General Assembly shall be in writing and shall state with particularity the nature of the General Assembly duties that require the continuance or stay. Opposing counsel, an interested party, or the court on its own motion shall have ten days from receipt of the request for a continuance or stay to object to the request by stating with particularity the grounds upon which it is determined that such stay or continuance will cause significant harm to the rights of a party or would otherwise be detrimental to the interest of justice. The court upon receipt of the objection, or on its own motion, shall consider the following in determining whether to grant or deny the continuance or stay:

(A) The length of time that the case has been pending;

(B) The length of delay that such stay or continuance will cause in the resolution of the case;

(C) The nature of the General Assembly duties that require the continuance or stay; and

(D) Such other factors that the court determines to be relevant in determining the harm to the rights of the parties or the interest of justice in the granting or denial of the request for a continuance or stay.

(2) Absent a ruling by the court denying the continuance or stay certified by the member under paragraph (1) of this subsection, such continuance or stay shall be considered granted as a matter of law."

SECTION 4.

Said article is further amended by revising Code Section 17-8-27, relating to grounds for granting of continuances to the Attorney General, as follows:

"17-8-27.

When any case pending in the courts of this state in which the Attorney General is of counsel is scheduled to be called for any ~~purpose~~ reason during sessions of the General Assembly or during a period of 15 days preceding or following sessions of the General

134 Assembly, on motion of the Attorney General or an assistant attorney general, it shall be
135 a good ground for continuance that the Attorney General and his staff are occupied in aid
136 of the business of the General Assembly."

137 **SECTION 5.**

138 This Act shall apply to all civil and criminal cases, including, but not limited to, any case
139 currently initiated within any court in this state.

140 **SECTION 6.**

141 This Act shall become effective upon its approval by the Governor or upon its becoming law
142 without such approval.

143 **SECTION 7.**

144 All laws and parts of laws in conflict with this Act are repealed.